

Example 1 of paragraph 1 the LEA had received from the Federal FY-2 appropriation, a section 611(g) subgrant that was \$20,000 greater than the subgrant it received from the Federal FY-1 appropriation, then up to \$4,000 of that subgrant could be treated as local funds. The LEA, however, would have to spend at least \$4,000 of its Federal FY-2 section 611(g) subgrant during its FY-2 in order for those funds to count as part of its local expenditures for that year for purposes of § 300.231.

In this example, if the LEA had carried over all of its Federal FY-2 section 611(g) subgrant to the LEA's FY-3 (and thus did not spend any of those funds during its FY-2), then none of the section 611(g) subgrant funds subject to the 20 percent rule could be considered as local funds for purposes of determining compliance with § 300.231. (The reason for this is that auditors, in determining an LEA's compliance with § 300.231, examine State and local, or local funds the LEA actually spent on special education and related services, and *not* those funds that the LEA could, but did not, spend for those purposes.)

If the LEA, in its FY-2, spent \$4,000 of its Federal FY-2 section 611(g) subgrant, then the LEA could count those expenditures and bring itself into compliance with § 300.231 (i.e., \$996,000 of the LEA's own local funds spent on special education and related services plus the \$4,000 of Federal FY-2 section 611(g) funds that can be counted as local funds equals a total of \$1,000,000 of local expenditures on special education in its FY-2—the amount of local expenditures needed to comply with § 300.231). However, if the LEA elected to take this step, it could not count any of the Federal FY-2 section 611(g) subgrant funds that it will spend in its FY-3 as local funds.

If the LEA, in its FY-2, spent only \$3,000 of its Federal FY-2 section 611(g) subgrant funds, then those funds could be counted by the LEA as local funds in calculating its compliance with § 300.231 for its FY-2. If the remaining \$1,000 of Federal FY-2 funds available to be considered local funds were spent in the LEA's FY-3, those funds could be considered in determining the LEA's compliance with § 300.231 for its FY-3. (Note, However, that if in its FY-2 the LEA had only spent \$996,000 of local funds and \$3,000 of its Federal funds, it would not have met the requirements of § 300.231. In this case the auditor would have \$1,000 of questioned costs (\$1,000,000 - [\$996,000 + \$3,000] = \$1,000) for FY-2).

[66 FR 1476, Jan. 8, 2001]

PART 301—PRESCHOOL GRANTS FOR CHILDREN WITH DISABILITIES

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AUTHORITY: 20 U.S.C. 1419, unless otherwise noted.

SOURCE: 63 FR 29930, June 1, 1998, unless otherwise noted.

Subpart A—General

§ 301.1 Purpose of the Preschool Grants for Children With Disabilities program.

The purpose of the Preschool Grants for Children With Disabilities program (Preschool Grants program) is to provide grants to States to assist them in providing special education and related services—

(a) To children with disabilities aged three through five years; and

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(b) At a State's discretion, to two-year-old children with disabilities who will turn three during the school year.

(Authority: 20 U.S.C. 1419(a))

§§ 301.2–301.3 [Reserved]

§ 301.4 Applicable regulations.

The following regulations apply to the Preschool Grants program:

(a) The Education Department General Administrative Regulations (EDGAR) in title 34 of the Code of Federal Regulations—

(1) Part 76 (State-Administered Programs) except §§ 76.125–76.137 and 76.650–76.662;

(2) Part 77 (Definitions that Apply to Department Regulations);

(3) Part 79 (Intergovernmental Review of Department of Education Programs and Activities);

(4) Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);

(5) Part 81 (General Education Provision Act—Enforcement);

(6) Part 82 (New Restrictions on Lobbying); and

(7) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for a Drug-Free Workplace (Grants)).

(b) The regulations in this part 301.

(c) The regulations in 34 CFR part 300.

(Authority: 20 U.S.C. 1419)

§ 301.5 Applicable definitions.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant	Fiscal year
Application	Grant period
Award	Secretary
EDGAR	Subgrant

(b) *Other definitions.* The following definitions also apply to this part:

Act means the Individuals with Disabilities Education Act, as amended.

Part B child count means the child count required by section 611(d)(2) of the Act.

Preschool means the age range of 3 through 5 years.

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State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Authority: 20 U.S.C. 1402, 1419)

§ 301.6 Applicability of part C of the Act to 2-year-old children with disabilities.

Part C of the Act does not apply to any child with disabilities receiving a free appropriate public education, in accordance with part B of the Act, with funds received under the Preschool Grants program.

(Authority: 20 U.S.C. 1419(h))

Subpart B—State Eligibility for a Grant

§ 301.10 Eligibility of a State to receive a grant.

A State is eligible to receive a grant if—

(a) The State is eligible under 34 CFR part 300; and

(b) The State demonstrates to the satisfaction of the Secretary that it has in effect policies and procedures that assure the provision of a free appropriate public education—

(1) For all children with disabilities aged 3 through 5 years in accordance with the requirements in 34 CFR part 300; and

(2) For any 2-year-old children, provided services by the SEA or by an LEA or ESA under § 301.1.

(Approved by the Office of Management and Budget under control number 1820–0030)

(Authority: 20 U.S.C. 1419 (a), (b))

§ 301.11 [Reserved]

§ 301.12 Sanctions if a State does not make a free appropriate public education available to all preschool children with disabilities.

If a State does not meet the requirements in section 619(b) of the Act—

(a) The State is not eligible for a grant under the Preschool Grant program;

(b) The State is not eligible for funds under 34 CFR part 300 for children with disabilities aged 3 through 5 years; and

(c) No SEA, LEA, ESA, or other public institution or agency within the